

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
LEO A. DONALDSON : ORDER OF SUSPENSION
_____ : DOCKET NO: 1718-124

At its meeting of September 15, 2017, the State Board of Examiners (Board) reviewed information received from the Criminal History Review Unit (CHRU) regarding Leo A. Donaldson. On or about June 5, 2017, Donaldson was indicted on 37 counts, including first degree Aggravated Sexual Assault, second degree Endangering the Welfare of a Child, second degree Sexual Assault, third degree Aggravated Criminal Sexual Contact, second degree Official Misconduct, fourth degree Criminal Sexual Contact and third degree Criminal Coercion. The charges allege that Donaldson engaged in various sexual acts with several victims, including anal and digital penetration and fellatio. Donaldson would be disqualified from public employment pursuant to *N.J.S.A. 18A:6-7.1 et seq.*, if he is convicted. Donaldson currently holds a Teacher of Technology Education Certificate of Eligibility with Advanced Standing, issued in May 2008 and a Teacher of Technology Education certificate, issued in August 2009. Upon review of the above information, at its meeting of November 1, 2017, the Board voted to issue Donaldson an Order to Show Cause as to why his certificates should not be suspended pending the resolution of the criminal proceedings against him.

The Board sent Donaldson the Order to Show Cause by regular and certified mail on November 2, 2017. The Order provided that Donaldson must file an Answer within 30 days. Donaldson filed an Answer on November 9, 2017. In that Answer, Donaldson admitted that the Order to Show Cause stated the charges in the Indictment but denied the legal conclusion that he would be disqualified from public employment if convicted and maintained his innocence. (Answer, ¶ 3). He also denied that there was any just cause to consider the suspension of his

certificates pending resolution of the criminal proceeding. (Answer, ¶ 4). In addition to his Answer, Donaldson submitted a supplemental letter which argued that “even the most fundamental notions of due process would be violated” if his certificates were suspended without a hearing. (Donaldson letter, pg. 1). He also noted that action against his certificates “at this juncture is highly premature.” (Donaldson letter, pg. 1). Finally, he argued that he was not performing any work under his certificates and had no intentions to do so until the criminal case was resolved and therefore “there is no practical benefit or public policy consideration” that would justify action against his certificates. (Donaldson letter, pg. 2).

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.7(e)*, on December 5, 2017, the Board sent Donaldson a hearing notice by regular and certified mail. The notice explained that it appeared that no material facts were in dispute. Thus, Donaldson was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder, as well as arguments with regard to the appropriate sanction in the event that the Board found just cause to take action against his certificates. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if his offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Donaldson was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. On January 3, 2018, Donaldson filed a Hearing Response in which he stated he would rely upon his previously-filed Answer. (Hearing Response, p. 1). Donaldson also waived his right to appear before the Board. (Hearing Response, p. 1).

The threshold issue before the Board in this matter, therefore, is whether there is just cause to take action against Donaldson’s certificates. At its meeting of April 13, 2018, the Board

considered the allegations in the Order to Show Cause, Donaldson's Answer and Hearing Response. The Board determined that no material facts related to Donaldson's offense were in dispute since he admitted that he had been indicted for the offenses charged. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*.

The Board must now determine whether Donaldson's conduct and charges, as set forth in the Order to Show Cause, represent just cause to act against his certificates pursuant to *N.J.A.C. 6A:9B-4.4*. The Board finds that they do.

The Board may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9B-4.4*. In enacting the Criminal History Review statute, *N.J.S.A. 18A:6-7.1 et seq.* in 1986, the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be dangerous. Individuals convicted of crimes such as Aggravated Sexual Assault, Endangering the Welfare of a Child, Sexual Assault, Aggravated Criminal Sexual Contact, Official Misconduct, Criminal Sexual Contact and Criminal Coercion fall squarely within this category. This strong legislative policy statement is in accord with the Commissioner's long-held belief that teachers must serve as role models for students. "Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." *Tenure of Sammons*, 1972 *S.L.D.* 302, 321.

Moreover, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 *N.J.L.* 369, 371 (Sup. Ct. 1943), *aff'd*, 131 *N.J.L.* 326 (E & A 1944). In this case, Donaldson has been indicted for offenses involving sexual conduct with several victims. The Board therefore finds that Donaldson's potential

disqualification from service in the public schools of this State because of his indictment for various sexual offenses provides just cause to take action against his certificates.

Accordingly, on March 1, 2018, the Board voted to suspend Donaldson's certificates pending resolution of the criminal proceedings against him. On this 13th day of April 2018, the Board formally adopted its written decision to suspend and it is therefore ORDERED that Leo A. Donaldson's Teacher of Technology Education Certificate of Eligibility with Advanced Standing and his Teacher of Technology Education certificate be suspended effective this day. If the charges are resolved in his favor, he shall notify the Board for appropriate action regarding the suspension order. It is further ORDERED that Donaldson return his certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, PO Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Robert R. Higgins, Secretary
State Board of Examiners

RRH/MZ/th

Date of Mailing:
via certified and regular mail

Appeals may be made to the Commissioner of Education pursuant to the provisions of *N.J.S.A.* 18A:6-38.4.